

## THE INAUGURAL JOHN D. GREENWALD WRITING COMPETITION: FOREWORD

### FOREWORD

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In this special trade-focused issue of the Georgetown Journal of International Law (“GJIL”), we at the Institute of International Economic Law (“IIEL”) are absolutely delighted to present the finalists and winner of the Inaugural John D. Greenwald Writing Competition.

The Competition has been made possible as the result of a generous gift from the law firm of Cassidy Levy Kent in memory of the firm’s partner and friend, John D. Greenwald. John’s friends felt driven to memorialize their colleague by establishing an endowment in his name to support student writing awards and annual lectures and symposia on the subject of international trade law. The John D. Greenwald Memorial Endowment is an exciting way to celebrate John’s life and legacy—with countless generations of law students receiving the writing award in John’s name, and by gathering the leaders of the trade bar together for lectures and symposia in John’s name, addressing the most pressing international trade issues of the day.

John Greenwald had a distinguished career in international trade law. He served in critical positions, including as Deputy General Counsel at the United States Trade Representative (“USTR”), as the first head of the Department of Commerce’s Office of Import Administration, and as a member of the adjunct faculty here at Georgetown University Law Center. While at Georgetown, John taught courses on international trade law, including a graduate seminar on unfair trade practices. John also spent over thirty years in private law practice, where he continued to have a very distinguished and influential career. I have come to know John via the words of his longstanding friends and colleagues who have described John as a critical and deep thinker, someone long dubbed the “dean” of the international trade bar—a sign of respect by both petitioner and respondent counsel for his intellect, integrity and skill as a lawyer. Even those on the other side of a matter looked forward to being in the court or hearing room with John. And everyone knew that they had to be on their toes, as John knew every detail and fact of every case he ever argued. John was a gifted writer who understood very well how

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to craft briefs that told a compelling story about each case. He told those stories in a style that was easy to read and utterly persuasive.

John's friends continued to help those of us who did not have the pleasure of knowing him in person know him through his work, sharing that he readily bridged the gap between practice and academic work about trade, contributing numerous thoughtful and reflective pieces to many law journals. He was a highly sought-after speaker at academic conferences on trade remedy law because of his quick wit, fierce intellect, and ability to reflect on both the history and implications of trade policy. John had a larger-than-life personality that filled every room he entered. He had a booming voice that greeted everyone with warmth, and he drew people to his projects and passions. He made everyone feel included, while at the same time pushing everyone to do better, to write better, to speak more clearly, to frame arguments more precisely, and to understand cases more accurately. As such, it is fitting indeed that IIEL and the GJIL cooperate to undertake this Competition in John's honor.

Over the past year, IIEL has worked closely with GJIL to launch this first student writing competition in John Greenwald's honor. We have been very pleased to cooperate so closely with the Journal and its editorial board leadership, and we thank them for all that they have done to support and effectuate the inaugural Competition. In partnership with the Journal, we sought top student submissions of Notes from current JD, LL.M., or SJD students in international economic law on issues relevant to international trade law, the jurisprudence of the WTO or regional trade organizations, jurisprudence concerning U.S. trade organizations, an issue relating to the political economy, or the efficacy of U.S. or international trade regimes.

Many submissions were received from across the country and indeed around the world. All submissions underwent an impartial review according to the usual and stringent GJIL editorial standards. The Journal selected the top three candidates. The three finalist pieces were then blind reviewed by a Faculty Committee, comprised of IIEL Executive Director and former U.S. Undersecretary of Commerce Grant Aldonas, Georgetown Law Professor of Practice and former WTO Appellate Body Member Jennifer Hillman, and myself. The finalist articles represent cutting-edge scholarship for not only GJIL, but also international trade scholarship more generally.

In *National Treatment in International Economic Law: The Case for Consistent Interpretation in New Generation EU Free Trade Agreements*, Natasha King, a Georgetown Law LL.M. student and IIEL Fellow, argues that recent developments in European Union Free Trade

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Agreement (“FTA”) formulation support a more consistent interpretation of the National Treatment obligation across the trade and investment chapters. Acknowledging the ostensibly different historical aims and purposes of the two legal regimes, she notes that differences between investment and trade are increasingly dissipating—and the subject matter of disputes, key institutional actors, substantive norms, regulatory exceptions, and remedies of the two regimes are increasingly converging. This all creates a basis for the cross application of norms in some of the most basic protections afforded in the instruments.

In *Compliance Problems under WTO Disputes Settled by Mutually Agreed Solution*, Vanderbilt Law’s Di Hao investigates the compliance problems of WTO members using Mutually Agreed Solutions (“MAS”) mechanisms to bypass their WTO obligations. The author argues that compliance problems under the MAS arise due to the ambiguity in the framework, which gives dispute parties excessive authority to reach settlements that may undermine the very norms of WTO law. This is because MAS fails to clarify what “consistent with covered agreements” means, how the mutually agreed solutions shall be notified to the DSB, and how specific the losing party shall make its report in demonstrating its progress of the implementation of WTO rulings. The author then examines these features, and argues that, among other things, a “special panel” functioning under the authority of the WTO Secretariat should also be established by the WTO Secretariat to assist in the monitoring and managing of the enforcement of WTO rules in disputes resolved by MAS.

Our winning Greenwald essay, *Reading the Trade Tea Leaves: A Comparative Analysis of Potential U.S. WTO-GATS Claims Against Privacy, Localization, and Cybersecurity Laws,*” was written by Georgetown Law’s Joshua Blume, a 3E and IIEL Fellow. In this top piece, Joshua analyzes the increasingly pivotal steps taken by the EU, China, and Russia to protect their digital data flows—and domestic industries—while attempting to claim exceptions to the General Agreement on Trade in Services (“GATS”). According to the author, the United States, as a major exporter of digital services trade, could successfully pursue a GATS-based attack on many of these measures and restrictions and find them violating Articles VI, XVI or XVII. A successful attack could, however, pose a pyrrhic victory, and expose the United States to future attack where it has asserted similar defenses. As a result, U.S. legal arguments would have to be articulated carefully in order to avoid future collateral damage, and exacerbating interstate frictions.

We are delighted to showcase these fine pieces of legal scholarship in this special issue of the GJIL, and proud to identify these promising and talented young authors as Greenwald finalists. Warm congratulations to all.